MONTANA LEGISLATIVE HISTORY

Chapter 53 1997

Bill H _____ S 80 Original bill & history ✓ C

H. Committee on Bus & Labor		S. Committee on Bus & Ind	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
_____	___C	1/21	✓C
2/5	✓C	_____	___C
_____	___C	_____	___C
Date Out 2/5	✓C	out 1/22	✓

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

SENATE BILL NO. 80

INTRODUCED BY HERTEL

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING UNDERWRITING ON OR AFTER THE ISSUE DATE OF THE POLICY, CERTIFICATE, OR SUBSCRIBER CONTRACT EXCEPT UNDER CERTAIN CONDITIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Postclaim underwriting prohibited -- condition.** An insurer, health service corporation, or health maintenance organization may not place an elimination rider on or rescind coverage provided by a disability policy, certificate, or subscriber contract after a policy, certificate, or contract has been issued unless the insured has made a material misrepresentation or fraudulent misstatement on the application or has failed to pay the premium when due.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 33, chapter 18, part 2, and the provisions of Title 33, chapter 18, part 2, apply to [section 1].

-END-

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on January 21, 1997, at 9:07 A.M., in Room 410.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. Bea McCarthy (D)

Members Excused: Sen. C.A. Casey Emerson (R)

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 80, 1/15/97
SB 111, SB 112, 1/13/97
Executive Action: None

HEARING ON SB 111

{Tape: 1; Side: A; Approx. Time Count: 9:07 am; Comments: N/A.}

Sponsor: **SENATOR MIGNON WATERMAN, SD 26, HELENA**

Proponents: **Clyde Dailey, State Auditor**
Tom Hopgood, Health Insurance Assoc. of America
Susan Good, MT Assoc. of Life Underwriters
Alve Thomas, AARP
Tanya Ask, Blue Cross and Blue Shield of Montana
Don Allen, MT Medical Benefit Plan

Opponents: **None**

As far as **SEN. BENEDICT'S** concerns about this bill being part of another bill, I would remind the committee of the Constitutional provision in Montana that requires each bill have only one subject and that basically insures we are not forced into voting for something we want because it has been put into another bill that we don't want. This bill I am proposing is not required to be passed to conform to anything. This is a discretionary act on the part of the Montana Legislature whether it wants to regulate viatical settlement contracts. I would appreciate a Do Pass.

{Tape: 1; Side: A; Approx. Time Count: 9:57 am; Comments: N/A.}

HEARING ON SB 80

Sponsor: **SENATOR JOHN HERTEL, SD 47, MOORE**

Proponents: **Frank Cote, Deputy Insurance Commissioner**
Susan Good, MT Life of Underwriters
Tanya Ask, Blue Cross and Blue Shield of Montana
Tom Hopgood, Health Insurance Assoc. of America

Opponents: **None**

Opening Statement by Sponsor:

SEN. JOHN HERTEL, SD 47, MOORE. I bring to you this morning SB 80. This bill is a consumer protection bill that would prohibit health insurance companies from underwriting a risk after a policy has been issued unless fraudulent statements or misrepresentations were made on the application. Underwriting is a process done by the insurer in collecting all the facts about a risk. Then the insurer will decide if he will accept the risk or decline the risk or place a rider on that risk. A rider is simply an attachment on the policy that specifically adds or deletes coverage. A small example of this might be: A health insurance policy is issued without the insurer reviewing the applicant's medical record or the application fails to specifically request information about an applicant's condition. After a policy holder claim is submitted, the insurer then requests medical records in an attempt to deny coverage or cancel the insured's policy. Sometimes information on the policy holder's condition or information related to the condition was discussed on the application but the underwriting was not done properly. This bill would protect the policy holder from the insurer going back and doing what is called "post-claim" underwriting. Again, the policy holder is protected by this bill. However, the policy holder must give corrected information on the application.

Proponents' Testimony:

Frank Cote, Deputy Insurance Commissioner. This is a consumer protection bill. It is a simple bill. SB 80 is designed to stop the following examples from happening. One example is a person

who had cerebral palsy. That person went to an insurer, applied for coverage and made known the fact that they had cerebral palsy. The policy was issued and approximately one year later, a claim was submitted. The insurer went back and looked at the medical history and decided because the person had cerebral palsy, they were going to deny coverage on all the coverages and cancel the insurance. This is not fair, because if the illness was disclosed in the application, the insurer had the opportunity to decline or place a rider on the policy and they could have done that at the time of application. The second example is someone who had a heart condition. Again, the heart condition was listed at the time of application. The insurer did not review the extent of the heart condition and again on a claim submitted on a totally unrelated illness, the insurer tried to not pay the claim by cancelling the policy from inception day. I would like to clarify that this deals only with health insurance. The second clarification is that this bill does not do anything with pre-existing conditions. An insurer can still not pay coverage in the first 12 months because of a pre-existing condition. It also does not change the ability of the insurer under current law to be able to deny coverage or to place an elimination rider on at the time of application.

{Tape: 1; Side: B; Approx. Time Count: 10:04 am; Comments: Missed hearing Susan Good's name on the beginning of the tape.

Susan Good, MT Assoc. of Life Underwriters. This is about the third consumer protection bill with similarities. The people I represent are people who purchase these insurances and these are one of the most important purchases they make. When things go wrong with these policies, the first person to get a call are my guys, the agents. That is why we appear on these bills that try to get everyone to improve communications. These issues can be complex and so we stand in support of this bill.

Dick Pattison, MT Senior Citizens Assoc. Our members and other Montanans from time to time may be affected and this bill would certainly help to correct a problem along these lines.

Tanya Ask, Blue Cross and Blue Shield of Montana. At the time the application is accepted by the company, we have the opportunity to study that application. Based on the information given, we do enter into a contract with the insured and at that point assume the obligation, barring any kind of misinformation, of honoring the contract.

Tom Hopgood, Health Insurance Assoc. of America. We ask the committee to endorse this bill with a Do Pass recommendation.

Don Allen, MT Medical Benefit Plan. We also support the bill.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. HERTEL closed. What is disclosed on the application is final. It must be honored. It is a good bill for insurance protection. Thank you for the hearing and encourage a Do Pass.

4/09	3RD READING CONCURRED AS AMENDED	49	1
4/14	SIGNED BY PRESIDENT		
4/15	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 348		
	EFFECTIVE DATE: 10/01/97		

SB 80 INTRODUCED BY HERTEL *LC0333 DRAFTER: MALY*

PROHIBIT UNDERWRITING ON OR AFTER THE ISSUE DATE OF THE POLICY, CERTIFICATE, OR SUBSCRIBER CONTRACT EXCEPT UNDER CERTAIN CONDITIONS

BY REQUEST OF STATE AUDITOR

12/31	INTRODUCED		
1/03	REFERRED TO BUSINESS & INDUSTRY		
1/06	FIRST READING		
1/21	HEARING		
1/23	COMMITTEE REPORT—BILL PASSED		
1/24	2ND READING PASSED	48	0
1/25	3RD READING PASSED	46	0
	TRANSMITTED TO HOUSE		
1/27	FIRST READING		
1/27	REFERRED TO BUSINESS & LABOR		
2/05	HEARING		
2/06	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	100	0
3/05	3RD READING CONCURRED	100	0
	RETURNED TO SENATE		
3/10	SIGNED BY PRESIDENT		
3/10	SIGNED BY SPEAKER		
3/11	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 53		
	EFFECTIVE DATE: 10/01/97		

SB 81 INTRODUCED BY SWYSGOOD *LC0265 DRAFTER: ERICKSON*

REVISE THE LAWS PERTAINING TO THE LICENSING AND OPERATION OF COMMERCIAL MOTOR VEHICLES

BY REQUEST OF DEPARTMENT OF JUSTICE

12/31	INTRODUCED		
1/03	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/06	FIRST READING		
1/14	HEARING		
1/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/23	2ND READING PASSED	49	0
1/24	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
1/25	FIRST READING		
1/25	REFERRED TO TRANSPORTATION		
2/03	HEARING		
2/04	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/04	2ND READING CONCURRED	79	19
3/05	3RD READING CONCURRED	92	8
	RETURNED TO SENATE WITH AMENDMENTS		
3/10	2ND READING AMENDMENTS CONCURRED	50	0
3/11	3RD READING PASSED	50	0

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on January 22, 1997, at 9;00 a.m., in Room 410.

ROLL CALL

Members Present:
Sen. John R. Hertel, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Bea McCarthy (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Services Division
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 83; 1/13/97
Executive Action: SB 83; SB 56; SB 80;
(SB 17 & SB 39 Tabled)

HEARING ON SB 83

Sponsor: **SENATOR MIKE SPRAGUE, SD 6, BILLINGS**

Proponents: **John Cadby, MT Bankers Assoc.**

Opponents: **None**

{Tape: 1; Side: A; Approx. Time Count: 9:00 AM; Comments: N/A.}

Opening Statement by Sponsor:

SENATOR MIKE SPRAGUE, SD 6, BILLINGS. I bring you SB 83. This bill came about in the last session (1995) and was introduced as Senate Joint Resolution 19. It was to go to the full Legislature for prioritizing in sub-committees to study the feasibility of

Vote: The motion to TABLE SB 39 CARRIED with SENATOR SHEA voting NO.

{Tape: 1; Side: B; Approx. Time Count: 10:24 AM; Comments: N/A.}

EXECUTIVE ACTION ON SB 56

Motion: SEN. SHEA MOVED SB 56 DO PASS.

Amendment Motion: SEN. BENEDICT MOVED TO AMEND SB 56.

Discussion: Bart Campbell explained the amendments. **(EXHIBIT 5)**

Vote on Amendment : The motion to amend SB 56 CARRIED UNANIMOUSLY

Substitute Motion: SEN. CRISMORE MOVED SB 56 DO PASS AS AMENDED.

Discussion on Substitute Motion: SEN. EMERSON questioned the fees that were being required for registration of private cemeteries and the renewal fees. He felt that they were excessive. **SEN. BENEDICT** said he doesn't like registration fees either but in most cases when the Dept of Commerce is regulating companies, they can spread this cost over many entities and keep the fees fairly even. There are only 10 private cemeteries in the state so this will not generate a lot of money to oversee 10 cemeteries. The overseeing requires someone to go on-site, not just auditing books, etc. **SEN. SHEA** had spoken with a couple of her constituents and they felt relieved that it was not going to be more. **SEN. EMERSON** asked if there were some way to amend the bill and lower the fee. **SEN. BENEDICT** answered that the fee was only in the fiscal note and would be set by rule by the Dept.

Vote: The DO PASS AS AMENDED motion on SB 56 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 80

MOTION/VOTE: SEN. SHEA MOVED SB 80 DO PASS. THE MOTION CARRIED UNANIMOUSLY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on February 5, 1997, at 8:00 AM, in Room 104.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Paul Sliter, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Charles R. Devaney (R)
Rep. David Ewer (D)
Rep. Kim Gillan (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Rod Marshall (R)
Rep. Gay Ann Masolo (R)
Rep. Wes Prouse (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Joe Tropila (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Stephen Maly, Legislative Services Division
Pati O'Reilly, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 80: HB 388:(1/29/97): HB 341 (1/30/97)
Executive Action: HB 409; SB 80; HB 364; Partial HB 309; HB 406

EXECUTIVE ACTION ON HB 364

Motion: Rep. Tropila moved do pass HB 364.
{Tape: 1; Side: 1; Approx. Time Count: 3.8; Comments: None.}

Amendments: Rep. Tropila moved to adopt Kottel amendment.
{Tape: 1; Side: 1; Approx. Time Count: 4.0; Comments: None.}

Discussion:
{Tape: 1; Side: 1; Approx. Time Count:5.0; Comments: None.}

Vote: Motion on amendment failed by roll call 8-11.
{Tape: 1; Side: 1; Approx. Time Count: 6..1; Comments: None.}

Motion/Vote: Rep. Sliter moved to table bill. Motion carried 14-5. **Reps. Tuss, Krenzler, Ewer, Gillan and Tropila** voted no.
{Tape: 1; Side: 1; Approx. Time Count: 11.9; Comments: None.}

HEARING ON S B 80

Opening Statement by Sponsor: Sen. Hertel, S. D. 47 introduced the bill.
{Tape: 1; Side: 1; Approx. Time Count: 12.1; Comments: None.}

Proponents' Testimony:
Frank Coty , Deputy Insurance Commissioner, State Auditor
{Tape: 1; Side: 1; Approx. Time Count: 14.9; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:
{Tape: 1; Side: 1; Approx. Time Count: 17.5; Comments: None.}

Closing by Sponsor:Sen. Hertel closed.
{Tape: 1; Side: 1; Approx. Time Count: 20.3; Comments: None.}

EXECUTIVE ACTION ON SB 80

Motion/Vote: Rep. Sliter moved do concur SB 80. Motion carried unanimously.
{Tape: 1; Side: 1; Approx. Time Count: 21.8; Comments: None.}

EXECUTIVE ACTION ON HB 309

Motion: Rep. Pavlovich moved do pass HB 309.
{Tape: 1; Side: 1; Approx. Time Count: 22.6; Comments: None.}

Amendments: Rep. Simon moved to adopt Simon amendment. **EXHIBIT 2.**
{Tape: 1; Side: 123,7; Approx. Time Count: 23.7; Comments:None.}

Discussion: *{Tape: 1; Side: 1; Approx. Time Count: 26.0; Comments: None.}*